

# *City of Brisbane*

## *Subcommittee Report*

TO: City Councilmembers Conway and O'Connell

FROM: Community Development Director and Special Assistant

SUBJECT: Ordinance No. 566 (Zoning Text Amendment RZ-6-11) to Amend Brisbane Municipal Code Titles 16 and 17 Regarding Condominiums

DATE: For May 1, 2013 Planning Issues Subcommittee Meeting

At the March 12<sup>th</sup> meeting, the Subcommittee agreed to recommend that condominium projects proposed to be affordable to moderate-income households should not be exempt from having to dedicate public park land or pay in-lieu fees, consistent with Government Code Section 66477 and Housing Element Program H.H.1.a. Draft Section 16.24.060.D would be revised accordingly (see attached draft revised "Redline" Version of Condominium Ordinance Amendments).

The Subcommittee requested that staff demonstrate how the in-lieu fee would be calculated to convert a 12-unit apartment building on a ¼-acre site (comparable to the existing buildings on Thomas Avenue) to condominiums. Based upon a standard of providing 3 acres of parks and recreational facilities per 1,000 population with the assumption that each unit would house 2.35 persons according to the 2010 U.S. Census results for Brisbane, the formula would be the number of units times 2.35 persons per household divided by 1,000 times 3 acres times the fair market value of 1 acre of the subject property per Section 16.24.030. Assuming the land value of the property is \$320,000 (a rough estimate based upon County Assessor's records), the in-lieu fee would be \$108,288  $[(12 \times 2.35)/1,000 \times 3 \times (\$320,000 \times 4)]$ . Note that if there were 50 or more units involved, the formula for dedicating land for parks and recreational facilities would be 3 acres for each 1,000 population within the project, assuming 2.35 persons per unit per Section 16.24.020, or 307 sq. ft. per unit.

Staff had suggested clarification of the exception to the restriction on condominium conversions when the vacancy rate is below 5.0%. Section 17.30.060A.2 would exempt condominium conversion projects that would provide "unique housing opportunities for very-low, low- and/or moderate-income households" as referenced in Housing Element Policy H.B.4. As discussed previously, this could be specified as providing unique housing opportunities for very-low, low- and/or moderate-income households that exceed the current requirements of the City's inclusionary housing provisions in BMC Section 17.31.030.B (for projects of 5 or fewer units, which would not be subject to the

inclusionary housing requirement, at least 1 unit affordable to very-low, low- and/or moderate-income households would be provided). Note that BMC Section 17.31.020.A.1 (see below) defines affordable ownership costs for moderate-income households based upon an income level of 110% of the area median income, adjusted for assumed household size based on unit size. BMC Section 17.31.020.A.2 (see below) defines affordable ownership costs for lower-income households based upon an income level of 70% of the area median income, adjusted for assumed household size based on unit size.

Total # of Units in Project	Inclusionary Requirement	
	Units Required to be Affordable to Low-Income Households	Units Required to be Affordable to Moderate-Income Households
0—5	0	0
6—10	0	1
11—15	1	1
16—20	1	2
21—25	1	3

Note: The largest existing apartment complex in Brisbane is 21 units.

#### 17.31.020 – Definitions.

A. Affordable Ownership Cost. Average monthly housing costs, during the first calendar year of a household's occupancy, including mortgage payments, property taxes, homeowners insurance, homeowners association dues, if any, and reasonable allowances for utilities and for maintenance and repair costs, which do not exceed the following:

1. For moderate income households: One hundred ten percent (110%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty-five percent (35%), and divided by twelve (12);
2. For lower income households: Seventy percent (70%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent (30%) and divided by twelve (12);
3. For very low income households: Fifty percent (50%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent (30%) and divided by twelve (12).

Given the existing multi-family residential rental stock, it is most likely that any condominium conversions in Brisbane would be one- to two-bedroom units which could be occupied by 2- to 3-person households. According to Zillow.com, two-bedroom condominium units at 737 San Bruno Avenue have lately sold for \$210,000-\$305,000, and two-bedroom condominium units at 41 Joy Avenue have sold for \$291,000-\$320,000. Based upon the 2013 area median income of \$92,700 for a three-person household in San Mateo County, the income limit for a moderate-income household earning 110% of the median (per BMC Section 17.31.020.A.1) would be \$101,970. Depending upon various assumptions including monthly house payments of 35% of gross income, such a household could theoretically afford to pay approximately \$487,271 for a unit. A low-income 3-person household in San Mateo County in 2013 would be assumed



to earn \$64,890 annually (70% of the median per BMC Section 17.31.010.A.2). Such households could theoretically afford to pay approximately \$276,143 (assuming monthly house payments of 30% of gross income). Thus, the current market-rate prices for older condominiums in Brisbane already appear to be affordable within most of the moderate-income range and much of the low-income range. In such a situation, the “unique housing opportunities” in a proposed condominium conversion project, when Brisbane’s rental vacancy rate would be less than 5%, should be provided for more low-income households that would be required under the City’s current inclusionary requirement, as shown in table below.

Demand for condominium conversions is more likely to occur, though, when condominium prices have increased above an affordable ownership cost for moderate-income households. In such cases, the “unique housing opportunities” would be provided for more moderate-income households that would be required under the inclusionary requirement, as shown below.

	Inclusionary Requirement		Condominium Conversion Exception			
			Existing Comparable Market-Rate Condominiums Are Not Affordable to Moderate-Income Households		Existing Comparable Market-Rate Condominiums Are Affordable to Moderate-Income Households	
Total # of Units in Project	Units Required to be Affordable to Low-Income Households	Units Required to be Affordable to Moderate-Income Households	Units Required to be Affordable to Low-Income Households	Units Required to be Affordable to Moderate-Income Households	Units Required to be Affordable to Low-Income Households	Units Required to be Affordable to Moderate-Income Households
0—5	0	0	0	1	1	0
6—10	0	1	0	2	1	1
11—15	1	1	1	2	2	1
16—20	1	2	1	3	2	2
21—25	1	3	1	4	2	3

To account for these different circumstances, staff suggests the following language:

**17.30.060 Findings.**

*A. In addition to the findings required for the granting of a use permit as set forth in Section 17.40.060, no use permit for a residential condominium conversion (including conversion of a mixed-use development with residential units) shall be granted unless the planning commission also finds and determines that:*

1. The condominium conversion will not adversely affect the rental market by not reducing the residential rental vacancy rate to less than 5.0% or

2. The condominium conversion will provide unique housing opportunities for very-low-, low- and/or moderate-income households, not currently found among comparable market-rate condominium units, that exceed the requirements of the municipal code's basic inclusionary requirement by providing one more affordable unit than required in Section 17.31.030.B.3, based upon proposed sales prices, financing and projected monthly dues, in addition to other factors as determined by the planning commission. For example, if comparable market-rate units are currently not affordable to moderate-income households at an affordable ownership cost as defined in Section 17.31.010.A.1, the project will include more units affordable to moderate-income households than would be required, and for projects of 5 or fewer units, which would not be subject to the inclusionary requirement, at least 1 unit affordable to moderate-income households would be provided. If comparable market-rate units are currently affordable to moderate-income households, the project will include more units affordable to low-income households at an affordable ownership cost as defined in Section 17.31.010.A.2 than would be required, and for projects of 5 or fewer units, which would not be subject to the inclusionary requirement, at least 1 unit affordable to low-income households would be provided.

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John Swiecki, Community Development Director